

faction of such debts as were 'due by bond or other specialty;' it followed as a necessary consequence, that upon a judgment against the debtor himself his lands might be taken and sold by a *fiery facias*; and in order that the writ itself should express this new extension of the authority it gave, the words 'lands and tenements,' were inserted so as expressly to command the levy to be made 'of the goods and chattels, lands and tenements,' of the defendant. (m)

The English statute of 1285, (n) declares, that 'when a debt is recovered or acknowledged in the king's court, or *damages* awarded, it shall be henceforth in the election of him that sueth for such debt or damages to have' an *elegit* to extend one-half of his land, &c., which gives the election immediately as soon as the debt is recovered; and therefore, the land is bound immediately from the time of the recovery of the debt; (o) and so the words of this statute of 1732, fixes the liability of the whole from the time of the recovery; and therefore, the lien attaches from the date of the judgment. (p) The English statute of 1285, gives the *elegit* to obtain satisfaction for 'such debt or damages.' This statute of 1732, speaks only of 'debts, duties, and demands;' and would seem to have relation only to cases arising between persons who stood in the relationship towards each other of debtor and creditor before the institution of the suit. But it has been always construed to extend to all cases where the plaintiff recovered a judgment for a certain sum of money, and thereby became a creditor of the defendant; although the foundation of such a judgment debt was, in truth, not a pecuniary claim, but a mere trespass or personal injury. Hence this statute of 1732, like some others in which the same terms are used, comprehends not only debts, in their proper sense, but duties or things due, as covenants, rents, fines, issues, or just causes of action; for, debt, in its large sense, signifies whatever a man owes. (q)

This statute of 1732 specifies the extent of the liability of lands, by declaring that they shall be assets in like manner as real estates are by the law of England liable to debts due by bond; and shall be subject to the like remedies, proceedings and process in any court of law or equity, for seizing, extending, selling or disposing of them, and in like manner as personal estate. From which last

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(m) 2 Harr. Ent. 678.—(n) 13 Ed. I. c. 18.—(o) Gilb. Execu. 37.—(p) Hampson v. Edelen, 2 H. & J. 64.—(q) 2 Inst. 193, 397; 1 Niebuhr's His. Rom. 437.